

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of	:	
	:	CG Docket No. 02-278
	:	
Vincent Lucas's Petition for a Declaratory Ruling	:	
	:	
Rules and Regulations Implementing the	:	
Telephone Consumer Protection Act of 1991	:	
	:	

**MOTION TO PROVIDE A STATUS UPDATE TO THE U.S. DISTRICT COURT
REGARDING PETITION**

WHEREAS,

1. On 6/18/2014, I, Vincent Lucas, filed a Petition for Expedited Declaratory Ruling and on 7/9/2014, this Commission released public notice DA 14-976 requesting comments on the issues raised in the Petition. The comment period expired more than two years ago.

2. The U.S. District Court for the Southern District of Ohio referred the issues raised in the petition to the primary jurisdiction of this Commission and has held Petitioner's lawsuit in abeyance pending a decision on the Petition. *Lucas v. Telemarketer*, No. 1:12-cv-630, Order and Opinion (S.D. Ohio Aug. 5, 2014), ECF Document No. 120¹. **"THE COURT URGES THE FCC TO ACT PROMPTLY UPON THE CONCLUSION OF THE COMMENT PERIOD, AS THIS ISSUE HAS WIDESPREAD IMPLICATIONS."** *Id.* (emphasis in original).

3. Recently, the U.S. District Court entered an Order to Show Cause in which it indicated that "it is inclined to assume that . . . the petition will not receive a declaratory ruling", because of the length of time that the Petition has been pending and because this Commission "has not

¹ Available at <https://ecfsapi.fcc.gov/file/7521778043.pdf>

indicated when a ruling will be forthcoming or whether a ruling will be forthcoming at all.”
Exhibit.

WHEREFORE,

I respectfully request that this Commission send the U.S. District Court an update on the status of the Petition, confirming that the Petition is still pending and that a ruling will be forthcoming. Please send the status update by 12/30/16. The address for the court is 100 E 5th St., Room 103, Cincinnati, OH 45202.

Respectfully submitted,

VINCENT LUCAS, PH.D.
P.O. Box 272
Amelia, OH 45102
vincentlucaslegal@gmail.com

Verification

I, Vincent Lucas, certify that to the best my knowledge all of the statements in this document are true and accurate. My address is P.O. Box 272, Amelia, OH 45102

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 19, 2016.

s/ Vincent Lucas

This declaration is made pursuant to 28 U.S.C. § 1746.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

VINCENT LUCAS,

Case No. 1:12-cv-630

Plaintiff,

Judge Timothy S. Black

vs.

TELEMARKETER CALLING
FROM (407) 476-5680 AND
OTHER TELEPHONE
NUMBERS, *et al.*,

Defendants.

ORDER TO SHOW CAUSE

On March 20, 2014, the presiding Magistrate Judge issued a Report and Recommendation (Doc. 91) regarding the disposition of Defendants' pending motion to dismiss (Doc. 70). On August 5, 2014, the Court entered an Order staying the resolution of the Report and Recommendation pending a declaratory ruling by the Federal Communications Commission on a petition Plaintiff filed on or around June 18, 2014. (Doc. 120).

Since the Court's Order to Stay, the parties have periodically updated the Court on the status of the FCC's review of Plaintiff's petition. To date, the FCC has made no ruling on Plaintiff's petition and has not indicated when a ruling will be forthcoming or whether a ruling will be forthcoming at all. It has now been nearly two and a half years since the filing of Plaintiff's petition.

The Court is inclined to assume that the FCC's refusal to acknowledge a petition for so long is an indication that the petition will not receive a declaratory ruling, and

EXHIBIT

accordingly the Court should rule on the outstanding Report and Recommendation.

Therefore, the parties are **ORDERED TO SHOW CAUSE** within 21 days of the date of this Order why the Court should not rule on the pending Report and Recommendation (Doc. 91).

IT IS SO ORDERED.

Date: 12/9/16

s/ Timothy S. Black
Timothy S. Black
United States District Judge